



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-739 (Enforcement Proceeding)

Certain Ground Fault Circuit Interrupters and Products Containing Same

Final Commission Determination; Issuance of Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue cease and desist orders against certain respondents found in default. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 205-2737. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov/>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the investigation underlying this enforcement proceeding on October 8, 2010, based on a complaint filed by Leviton Manufacturing Co., Inc., of Melville, New York ("Leviton"). 75 FR 62420 (Oct. 8,

2010). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of, *inter alia*, U.S. Patent No. 7,737,809 (“the ’809 patent”).

On April 27, 2012, the Commission issued a general exclusion order barring entry of ground fault circuit interrupters that infringe certain claims of the ’809 patent. The Commission also entered cease and desist orders against several respondents, including defaulting domestic and foreign respondents: Menard, Inc., of Eau Claire, Wisconsin; Garvin Industries, Inc., of Franklin Park, Illinois; Aubuchon Co., Inc., of Westminister, Massachusetts, Westside Wholesale Electric & Lighting, Inc., of Los Angeles, California; New Aspen Devices Corporation, of Brooklyn, New York; American Ace Supply Inc., of San Francisco, California; Contractor Lighting & Supply, Inc., of Columbus, Ohio; Littman Bros. Energy Supplies, Inc, of Schaumburg, Illinois; Safety Plus, Inc., of McFarland, Wisconsin; Norcross Electric Supply Co. of Suwanee, Georgia; Royal Pacific Ltd. of Albuquerque, New Mexico; and Zhejiang Easting House Electric Co. of Zhejiang, China.

On November 1, 2012, the Commission instituted a proceeding for the enforcement of the Commission’s remedial orders based on an enforcement complaint filed by Leviton. 77 FR 66080 (Nov. 1, 2012). The enforcement complaint alleged that domestic respondent American Electric Depot Inc. (“AED”); and foreign respondents Shanghai ELE Manufacturing Corp. (“Shanghai ELE”), and Shanghai Jia AO Electrical Co., Ltd. (“Shanghai Jia AO”) violated the general exclusion order. The enforcement complaint also alleged that other respondents violated cease and desist orders. On February 14, 2013, the presiding administrative law judge (“ALJ”)

issued an initial determination finding AED, Shanghai ELE, and Shanghai Jia AO in default. All other respondents settled. On April 10, 2013, the Commission determined not to review the initial determination with respect to the defaulting respondents.

On April 16, 2013, complainant Leviton filed a motion requesting that the Commission issue (1) a cease and desist order against AED; and (2) seizure and forfeiture orders against ground fault circuit interrupters imported or sold by AED, Shanghai ELE, and Shanghai Jia AO. On April 26, 2013, the Commission investigative attorney (“IA”) filed a response supporting Leviton’s motion with respect to a cease and desist order against AED. None of the defaulting respondents filed a response.

On May 22, 2013, the ALJ issued a recommended determination (“RD”) on remedy. The ALJ drew an inference from AED’s refusal to participate in the enforcement proceeding that AED has commercially significant inventories of infringing articles. Accordingly, the ALJ recommended that the Commission issue a cease and desist order prohibiting AED from selling or distributing infringing articles in the United States. The ALJ declined to recommend seizure and forfeiture orders because he found Leviton failed to show evidence that infringing articles were previously denied entry, as required under Commission Rule 210.75(b)(6)(ii).

On July 31, 2013, the Commission requested briefing on the remedy, bonding and the public interest. On August 16, 2013, the Commission received submissions from Leviton and the IA. The Commission did not receive any comments from the defaulting respondents or the public. On August 30, 2013, the IA filed a reply submission. On September 3, 2013, the IA filed an unopposed motion to file a substitute submission. The Commission hereby grants the IA’s motion to file a substitute submission.

The Commission has determined that the appropriate form of relief consists of cease and desist orders prohibiting defaulting respondents AED, Shanghai ELE, and Shanghai Jia AO from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for ground fault circuit interrupters and products containing the same that infringe one or more of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent. The Commission has determined that there are sufficient allegations in the enforcement complaint of domestic activities by the defaulting respondents to support issuance of cease and desist orders. *See Certain Digital Photo Frames and Image Display Devices and Components Thereof*, Inv. 337-TA-807, Comm'n Op. (March 27, 2013).

The Commission has further determined that the public interest factors enumerated in subsection (g)(1) (19 U.S.C. § 1337 (g)(1)) do not preclude issuance of the cease and desist orders. Finally, the Commission has determined to set a bond of \$0.25 per unit for temporary activities otherwise prohibited by the cease and desist orders with respect to the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated the investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

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